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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,624	09/27/2001	Richard Jarvis Warner	2001-8	9720
33550	7590	02/02/2004	EXAMINER	
JAMES VAN SANTEN 720 NATWILL SQUARE GENEVA, IL 60134-2073				YEUNG, GEORGE CHAN PUI
ART UNIT		PAPER NUMBER		
1761				

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/963,624	WARNER ET AL
	Examiner George C Yeung	Art Unit 1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-4 and 10 is/are allowed.
- 6) Claim(s) 5-9, 13 and 14 is/are rejected.
- 7) Claim(s) 11 and 12 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

The abstract of the disclosure is objected to because it includes such legal phraseology as "means" (lines 1 and 7). Correction is required. See MPEP § 608.01(b).

Claims 11 and 12 are objected to because of the following informality:

The term "Pastas" recited in claim 11, line 2, should be changed to read --pastas

Claims 5-9, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention for the following reasons:

1. Claim 5 is rejected as being an improper Jepson claim since the phrase "For use in" (line 1) and the word "of " (line 5) do not constitute proper Jepson terminology. The change of this phrase to --In -- and the change of this word to -- comprising -- would obviate this rejection.
2. Claim 9 is also rejected as being an improper Jepson claim since the word "of " (line 4) does not constitute proper Jepson terminology. The change of this word to -- comprising -- would overcome this rejection.
3. There is no antecedent basis for "the face" recited in claim 13, line 5.

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4. The phrase "from each corresponding end" recited in claim 13, line 11 is indefinite. The change of this phrase to -- respectively from each end of the jacket -- would obviate this rejection (see page 6, lines 28-30 of the specification).

### ***Allowable Subject Matter***

Claims 1-4 and 10 are allowed. Claims 5- 9 and 11-14 would be allowable if amended to overcome the objection and the rejections under 35 U.S.C. 112 set forth in this Office action.

### ***Prior Art Citation***

The Kowalski et al patent is cited to show an apparatus for extruding pasta lengths which includes an electric resistance heater for the pasta die. The Irvin et al patent is cited to show a method for making extruded pasta shapes.

The U.S. patents disclosed on pages 1 and 2 of the specification have been considered by the Examiner and these patents are formally made of record on the Form PTO-892.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance: The prior art of record does not show or suggest the combination of method steps set forth in claims 1 and 11 and the combination of structural elements set forth in claims 5, 9,10 and 13 for making an extruded food product.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner George C. Yeung whose telephone number is (571) 272-1412. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0987.

G. Yeung/af  
January 22, 2004

  
GEORGE C. YEUNG  
PRIMARY EXAMINER